



DEPARTMENT OF ENERGY

Western Area Power Administration

Notice of Final 2025 Provo River Project Marketing Plan and Call for 2025 Resource Pool Applications

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Final 2025 Provo River Project Marketing Plan and Call for 2025 Resource Pool Applications.

SUMMARY: Western Area Power Administration (WAPA), a federal Power Marketing Administration of the Department of Energy (DOE), Colorado River Storage Project (CRSP) Management Center (MC) announces its Final 2025 Provo River Project Marketing Plan (Marketing Plan) and Call for 2025 Resource Pool Applications (Call for Applications) for an allocation of federal energy from the Provo River Project (PRP). On September 30, 2024, all existing PRP energy sales contracts (Contracts) will expire. This notice responds to comments received on the Proposed 2025 Provo River Project Marketing Plan (Proposed Plan) published in the *Federal Register* June 1, 2022, and sets forth the Marketing Plan. The Marketing Plan specifies the terms and conditions under which WAPA will market energy from the PRP beginning October 1, 2024, through September 30, 2054. This Marketing Plan supersedes the previous PRP marketing plan. WAPA will offer new Contracts for the sale of energy to existing customers (Customers). The Marketing Plan also establishes one resource pool (2025 Resource Pool) of up to 3 percent of the net marketable resource under contract at the time of reallocation to be available for eligible new preference entities. Eligible preference entities who wish to apply for a new allocation from the PRP must submit a formal application using the Applicant Profile Data (APD) application form and satisfy the criteria as described in this *Federal Register* notice.

DATES: The Marketing Plan will become applicable **[INSERT DATE 30 DAYS AFTER**

DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. The Call for Applications will begin on that same date. WAPA must receive a completed and signed application using the APD form by 4:00 p.m., MDT, on **[INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]** to be assured of consideration by WAPA.

ADDRESSES: Preference entities interested in applying for an allocation may submit a completed hard copy APD application form with a wet signature to: Mr. Rodney G. Bailey, CRSP Manager, CRSP MC, Western Area Power Administration, 1800 South Rio Grande Avenue, Montrose, CO 81401. APD application forms with an e-signature may be e-mailed to *Provo-Marketing@wapa.gov*. All APD forms must be received by WAPA within the time required in the **DATES** Section, herein.

FOR FURTHER INFORMATION CONTACT: Mr. Randolph Manion, CRSP Contracts and Energy Services Manager, *Manion@wapa.gov*, 720-201-3285, or fax at 970-240-6282. Written requests for information should be mailed to the CRSP MC in the **ADDRESSES** section, herein. Information on development of the Marketing Plan and ADP application form can be found at <https://www.wapa.gov/regions/CRSP/PowerMarketing/Pages/2025-provo-power-marketing-plan.aspx>.

SUPPLEMENTARY INFORMATION:

Background

WAPA is responsible for marketing power from the PRP, which is done independently from the other projects marketed by WAPA's CRSP, including the Salt Lake City Area Integrated Projects (SLCA/IP), Olmsted Project, and the Falcon-Amistad Project. In addition to marketing power from the PRP and other projects, WAPA's CRSP operates approximately 2,316 miles of transmission lines and associated infrastructure related to these federal hydroelectric projects across Arizona, New Mexico, Colorado, Utah, and Wyoming.

The PRP is a small water development project, with a powerplant, in northern Utah. It was authorized by President Franklin D. Roosevelt, in part, as a response to the Great Depression and

a severe drought that devastated Utah's agriculture and threatened municipal water supplies in the 1930s. PRP's primary function is to provide water for irrigation, municipal, and industrial purposes in Salt Lake and Utah Counties, Utah. The Department of the Interior, Bureau of Reclamation (Reclamation) finished construction of the Deer Creek Dam in 1938 and the Deer Creek Powerplant in 1958, which included two 2.475-megawatt generators. On June 27, 1936, Reclamation signed contract number Ilr-874 making the Provo River Water Users' Association (PRWUA) the operator of the dam and responsible for repayment of the PRP. The initial investment in the power facilities was repaid in 1984 but there are ongoing costs associated with operation, maintenance, and replacement (OM&R) of equipment.

Between October 15 and April 15, water may be diverted from the adjacent Weber River Basin into the Provo River and stored in Deer Creek Reservoir for irrigation purposes pursuant to the terms of the 1938 contract number Ilr-1082 between the PRWUA, PacifiCorp (formerly Utah Power and Light Company), and Reclamation, among others. This winter season diversion creates a loss of hydropower generation at the Weber Powerplant on the Weber River, downstream from the diversion. As a result, PacifiCorp, the owner of the Weber Powerplant, is reimbursed for its energy losses caused by the diversion with PRP energy (Weber/Provo Water Exchange). During this winter period, PRP generation above the reimbursement amount for the Weber/Provo Water Exchange is marketed by WAPA to PRP allottees as surplus energy. During the summer period, the total available PRP generation is marketed by WAPA to PRP allottees.

The Marketing Plan, herein, describes how CRSP Management Center will market federal energy from the PRP beginning October 1, 2024, through September 30, 2054. As part of the Marketing Plan, WAPA will establish one 2025 Resource Pool of 3 percent of the net marketable resource currently under contract to be available for eligible new preference entities and Customers. The 2025 Resource Pool will be allocated and under contract by October 1, 2024. WAPA, at its discretion, will allocate a percentage of the 2025 Resource Pool to selected applicant(s) that meet the Eligibility Criteria defined in the Marketing Plan, herein. This

allocation percentage will be multiplied by the 2025 Resource Pool percentage to determine the applicant's percentage of the resource pool. WAPA will publish a notice in the *Federal Register* once those proposed allocations have been determined (Proposed Allocations). The public will have an opportunity to comment on the Proposed Allocations. After reviewing the comments, WAPA will publish a notice of Proposed Allocations in the *Federal Register*. Once the final 2025 Resource Pool allocations have been published, WAPA will work with Customers and any new allottees to prepare and execute new Contracts pursuant to the General Contract Principles as described in this notice.

Response to Comments on the Proposed 2025 Provo River Project Marketing Plan

During the public consultation and comment period, WAPA received three letters and one email commenting on the Proposed Plan. In addition, WAPA received one comment during the June 28, 2022, Public Comment Forum. In preparing the Marketing Plan, WAPA reviewed and considered all comments received during the public consultation and comment period. The following is a summary of the comments received during the consultation and comment period, and WAPA's responses to those comments. Comments are grouped by subject and paraphrased for brevity when it was possible to do so without affecting the meaning of the statements.

A. Marketing Area Responses

Comment: One commenter stated they support the marketing area of the two counties of Utah and Wasatch in the State of Utah.

Response: Thank you for this comment.

B. Resource Extensions and Resource Pool Allocations Responses

Comment: One commenter stated they support WAPA's proposal to provide 95 percent of PRP's available energy to existing Customers ensuring rights to a 2025 marketing allocation.

Response: WAPA appreciates this comment. WAPA plans to reduce the proposed 5 percent Resource Pool to 3 percent, consistent with other WAPA Region's marketing

plans.

Comment: One commenter stated the PRP should be renewed and continued at the same allocation percentages – and if new customers are to be added, they suggest WAPA look no further than within the current entities for these new customers. Furthermore, the current entities have experienced significant load growth, some a 10-fold increase since 1995. If allocations are reduced to current entities, this would be contrary to their needs.

Response: Thank you for this comment. WAPA appreciates the concern with the reduction in current allocations. In response, WAPA is limiting the Resource Pool to a total of 3 percent. However, a Resource Pool is required to ensure consistency with the wide-spread use policy to allow new applicants opportunity to receive an allocation.

Comment: One commenter asked if the entities receiving a percentage of PRP are paying customers or do they just get the energy for free?

Response: Customers have an obligation to pay all the allocable annual PRP powerplant expenses including an amount to assist the Provo River Water Users' Association repayment to the United States original investment in the PRP. In return, the Customers and any new allottees will receive the marketable energy of the PRP.

C. Preference Entities Responses

Comment: No comments received.

Response: No responses provided.

D. Ready, Willing, and Able Responses

Comment: One commenter stated they support the marketing criteria in the Proposed Plan; and as a preference entity serving the electrical needs of six municipalities, they stand ready, willing, and able to receive the power and energy from the PRP resource to meet continued electricity load growth for their six member cities. They are prepared to accept a new allocation under the terms and conditions of the contract.

Response: Thank you for this comment.

E. Eligible Applicants Responses

Comment: One commenter stated if new allocations are to be given, they should be the Customers with significant load growth.

Response: Existing Customers will have an opportunity to apply for a percentage of the Resource Pool.

F. Contract Obligations Responses

Comment: No comments received.

Response: No responses provided.

G. Separate Contractual Arrangements with PacifiCorp Responses

Comment: No comments received.

Response: No response provided.

H. Contract Term Responses

Comment: One commenter requested a longer contract term. They believed this will be helpful for planning for the future.

Response: WAPA appreciates this comment and agrees a longer contract term will be more effective and efficient for everyone. WAPA is lengthening the contract term to a fixed 30-year period.

I. Delivery Point Responses

Comment: No comments received.

Response: No responses provided.

J. Transmission Beyond Delivery Point Responses

Comment: No comments received

Response: No responses provided.

K. Regional Transmission Organization Responses

Comment: One commenter stated there is troubling language in Section K of the Proposed Plan regarding regional transmission.

Response: Thank you for this comment. WAPA cannot foresee all possible impacts due to PacifiCorp joining organized electricity markets, such as a regional transmission organization. The language in Section K attempts to strike a balance between unknown impacts and WAPA's ability to address potential transmission impacts beyond the PRP delivery point.

L. Rates and Payment Responses

Comment: No comments received.

Response: No responses provided.

M. General Comments Responses

Comment: One commenter stated the Summary Section of the Proposed Plan provides the current PRP Marketing Plan expires September 30, 2024. The Marketing plan completed its purpose when power from Deer Creek was allocated. The present contracts for the sale of that power terminate September 30, 2024.

Response: Thank you for this comment.

Comment: One commenter stated they value their long-standing working relationship with WAPA in managing the PRP facilities and WAPA's efforts to solve challenges associated with drought and meeting the growth for energy in the West.

Response: Thank you for this comment.

Comment: One commenter asked if Customers receive a fixed amount of energy or an allocation?

Response: Customers will receive a percentage of the total PRP marketable energy as an allocation.

Comment: One commenter noted the Proposed Plan stated the PRP generation is sold to CRSP in the summer Season while it is, of course, sold to customers.

Response: WAPA concurs with this comment and corrected the language in the Marketing Plan.

Comment: One commenter stated the Proposed Plan referenced water diverted for irrigation purposes should also emphasize Municipal and Industrial purposes.

Response: WAPA concurs with this statement and highlighted this point in the Marketing Plan.

Comment: One commenter stated the Proposed Plan provides, in part, that “applicants... Will receive a percentage of available annual winter...generation...”. However, the Proposed Plan provides that “During this winter period, PRP generation above the reimbursement amount is sold to WAPA’s CRSP as non-firm surplus energy.”

Response: Thank you for this comment. WAPA corrected this statement in the Marketing Plan to “During this winter period, PRP generation above the reimbursement amount is marketed by WAPA to PRP allottees as surplus energy.”

Summary of Major Revisions to the Marketing Plan

WAPA revised the Marketing Plan, in part, to address comments received during the public consultation and comment period. The revisions are summarized as follows:

- Marketing Plan Section B: Resource Extension and Resource Pool changed from 5 percent to 3 percent; and additional clarifying language added to this section.
- Marketing Plan Section F: Contract Obligations clarifying language added including the addition of language pertaining to decreasing or increasing a Customer’s allocation upon 180 days’ notice; and new language allowing Net Billing and Bill Crediting.
- Marketing Plan Section H: Contract Term changed from a 10-year term with two automatic 5-year renewals to a fixed 30-year term, October 1, 2024, through September 30, 2054.
- Marketing Plan Section K: Regional Transmission Organization and other organized market activities sentence added “...with the understanding that WAPA holds the unilateral right to ultimately agree or not agree to what those potential mitigation efforts might be and each Customer is ultimately responsible for all transmission costs associated with their allocation...”

- Marketing Plan added three new sections:
 - The addition of Section I: Acronyms and Definitions
 - Added Section III: Changes Due to Drought
 - Added Section IV: Call for 2025 Resource Pool Applications for Power

2025 Provo River Project Marketing Plan and Marketing Criteria

The Marketing Plan addresses: (1) The available PRP energy to be marketed after September 30, 2024, which is the termination date for all existing PRP Contracts; (2) the general terms and conditions under which the energy will be marketed October 1, 2024, through September 30, 2054, to Customers and new allottee(s); and (3) the criteria to determine who will be eligible to receive allocations from the 2025 Resource Pool.

WAPA will continue a collaborative process with Customers and new allottees in implementing the terms set forth in the Marketing Plan.

Within broad statutory guidelines, WAPA has discretion as to whom and under what terms it will contract for the sale of federal power, as long as preference is accorded to statutorily defined public bodies. WAPA markets power in a manner that will encourage the most widespread use at the lowest possible rates consistent with sound business principles. All products and services provided under the Marketing Plan will be subject to the operational requirements and constraints of the PRP, transmission availability, and federal authorities.

I. Acronyms and Definitions

As used herein, the following acronyms and terms, whether singular or plural, capitalized or not capitalized, shall have the following meanings:

Allocation: An offer from WAPA to sell federal energy for a certain period of time, which will convert to a right to purchase after execution of a contract.

Allocation Criteria: Criteria used to determine the amount of energy allocated to allottees.

<u>Allottee:</u>	A preference entity receiving an allocation.
<u>Base Resource:</u>	A percentage of the annual net marketable energy output of the PRP rather than fixed quantities of energy as determined by WAPA to be available for marketing after meeting any adjustments for operation and maintenance power requirements. The annual energy output is comprised of the available PRP generation from April through September; surplus energy available from October through April, which is PRP generation above the reimbursement amount for the Weber/Provo Water Exchange.
<u>Bill Crediting:</u>	Contractual provisions whereby payments due to WAPA by a Customer shall be paid by a Customer to a third party when so directed by WAPA.
<u>CRSP:</u>	Colorado River Storage Project is a DOI project designed to oversee the development of the water resources of the Upper Colorado River Basin. The project provides hydroelectric power, flood control and water storage for participating states along the upper portion of the Colorado River and its major tributaries.
<u>Contract Principles:</u>	Provisions of the Contracts, including WAPA's General Power Contract Provisions.
<u>CRSP Management Center:</u>	Is one of five regional offices within WAPA responsible for marketing power from federal hydrogeneration facilities.
<u>Customer:</u>	An entity with a contract and receiving electric service

from the PRP.

Electric Utility Status:

Means that a Preference entity that has responsibility to meet load growth, has a distribution system, and is ready, willing, and able to purchase federal power from WAPA on a wholesale basis.

Eligibility Criteria:

Conditions that must be met to qualify for an allocation.

Energy:

Measured in terms of the work it can do over a period of time; electric energy is usually measured in kilowatt-hours (KWh) or megawatt-hours (MWh).

GPCP:

General Power Contract Provisions. Standard terms and conditions included in WAPA's Contracts.

Integrated Resource Plan (IRP):

A process and framework within which the costs and benefits of both demand and supply-side resources are evaluated to develop the least total cost mix of utility resource options.

Kilowatt (kW):

A unit measuring the rate of production of electricity; 1 kilowatt equals 1,000 watts.

Marketing Area:

The counties of Utah and Wasatch, within and to the exterior of these county boundaries as established through an administrative or political subdivision of a state Utah.

Marketing Plan:

WAPA's final 2025 Power Marketing Plan for the PRP.

Megawatt (MW):

A unit measuring the rate of production of electricity; 1 megawatt equals 1 million watts.

Net Billing:

Payments due to WAPA by a customer may be offset against payments due to that customer by WAPA.

Power:

Capacity and energy.

Preference: The requirements of Reclamation Law that provide for preference in the sale of federal power be given to certain entities such as governments (state, federal and Native American), municipalities and other corporations or agencies, and cooperatives and other nonprofit organizations financed in whole or in part by loans made pursuant to the Rural Electrification Act of 1936 (See, *e.g.*, Reclamation Project Act of 1939, Section 9(c), 43 U.S.C. 485h(c)). A Native American applicant must be an “Indian Tribe” as that term is defined in section 4 of the Indian Self Determination and Education Assistance Act, as amended (25 U.S.C. 5304(e)).

Provo River Project (PRP): The Department of the Interior, Bureau of Reclamation (Reclamation) constructed Deer Creek Dam (1938) and the Deer Creek Powerplant (1958), which included two 2.475-megawatt generators. On June 27, 1936, Reclamation signed contract number Ilr-874 making the PRWUA the operator of the dam and responsible for repayment of the PRP.

Reclamation Law: Refers to a series of federal laws with a lineage dating back to the late 1800s. Viewed as a whole, those laws create the framework under which WAPA markets power.

2025 Resource Pool: A pool of energy created from available net marketable PRP power resources allocated to Customers.

WAPA: Western Area Power Administration, United States Department of Energy, a federal Power Marketing

Administration responsible for marketing and transmitting
federal power pursuant to Reclamation Law and DOE
Organization Act (42 USC 7101, *et seq.*).

II. Provo River Project Marketing Plan, General Criteria and Contract Principles

The following criteria and contract principles apply to all Contracts executed under the Marketing Plan:

A. Marketing Area

As defined in Section I., herein, the Marketing Area includes the counties of Utah and Wasatch, within and to the exterior of these county boundaries as established through an administrative or political subdivision of a state Utah.

B. Resource Extensions and 2025 Resource Pool Allocations

WAPA will provide 97 percent of the net marketable PRP resources to existing customers and establish a resource pool with the remaining energy resources for new allocations.

1. Extension for Existing Customers

Starting October 1, 2024, existing Customers will have the right to purchase 97 percent of the net marketable PRP energy resources through September 30, 2054, under new Contracts. If existing Customer(s) surrender some or all of its allocation prior to October 1, 2024, that percentage of the total Base Resource will be returned to the remaining existing Customers on a *pro rata* basis.

2. Pool Resources and Amount

The 2025 Resource Pool will consist of 3 percent of the net marketable PRP energy resources available after September 30, 2024. The 2025 Resource Pool will be created by reducing existing Customers' allocations by up to 3 percent. An estimated amount of net marketable PRP energy resource that may be available for the Resource Pool as of October 1, 2024, through September 30, 2054, is estimated at

517,306 kWh annually, an approximate figure based on the most recent 5-year net marketable power average of 17,243,527 kWh annually. PRP energy not under Contract by September 30, 2024, will be reallocated to the existing Customers on a *pro rata* basis.

3. 2025 Resource Pool Allocations

WAPA will, at its discretion, allocate a percentage of the 2025 Resource Pool to applicants that meet the Eligibility and Allocation Criteria. WAPA will take into consideration all existing federal hydropower allocations an applicant is currently receiving when determining each new 2025 Resource Pool allocation. Allocations from the 2025 Resource Pool will be determined through processes described in this Marketing Plan. The 2025 Resource Pool will be dissolved after September 30, 2024, the closing date for executing new 2025 Resource Pool Contracts.

4. 2025 Resource Pool Allocation Criteria

The following Allocation Criteria will apply to all applicants seeking a 2025 Resource Pool Allocation under the Marketing Plan:

- a. Allocations will be made in amounts as determined solely by WAPA in the exercise of its discretion under Reclamation Law and considered to be in the best interest of the U.S. Government.
- b. Allocations will be determined based on all existing federal hydropower allocations an applicant is currently receiving and on the applicant's load during the calendar year prior to the Call for Applications or the amount requested, whichever is less.
- c. An allottee will execute an electric service contract with WAPA and comply with all the conditions in that contract.
- d. Eligible Native American applicants will receive consideration for an allocation consistent with this Marketing Plan and 25 U.S.C. 3505.

C. Preference Entities

As defined herein, includes Municipalities, rural electric cooperatives, and political subdivisions including irrigation or other districts, other governmental organizations, nonprofit organizations financed in whole or in part by loans made pursuant to the Rural Electrification Act of 1936, and federally recognized Native American tribes are all preference entities in accordance with section 9(c) of the Reclamation Project Act of 1939, as amended (43 U.S.C. 485h(c)). A Native American applicant must be an “Indian Tribe” as that term is defined in section 4 of the Indian Self Determination and Education Assistance Act, as amended (25 U.S.C. 5304(e)).

D. Ready, Willing, and Able

Eligible applicants must be ready, willing, and able to receive and distribute or consume energy from WAPA by October 1, 2024. “Ready, willing, and able” means the applicant has the facilities needed for the receipt of power or has made the necessary arrangements for transmission and/or distribution service, and its power supply contracts with third parties to permit the delivery of WAPA’s power.

E. Eligible Applicants

WAPA will apply the following Eligibility Criteria to all applicants seeking a 2025 Resource Pool Allocation under the Marketing Plan:

1. Applicants must meet the preference requirements under Section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)(1)), as amended and supplemented.
2. Applicants must be located within the Marketing Area.
3. Applicants that require energy for their own use must be ready, willing, and able to receive and use federal energy.
4. Applicants that provide retail electric service must be ready, willing, and able to receive and use the federal energy to provide electric service to their customers, not

for resale to other utilities.

5. Applicants must submit an application in response to the Call for 2025 Resource Pool Applications by the deadline for receipt by WAPA as specified in the **DATES** section, herein.
6. Native American applicants must be a Native American tribe as defined in the Indian Self Determination Act of 1975 (25 U.S.C. 5304).
7. WAPA generally will not allocate power to applicants with loads of less than 1 MW; however, allocations to applicants with loads of at least 500 kW may be considered, provided the loads can be aggregated with other allottees' loads to schedule and deliver to a minimum load of 1 MW.

F. Contract Obligations

Eligible applicants that receive an allocation must execute Contracts within 6 months of receiving a contract offer from WAPA, unless WAPA agrees otherwise in writing. Furthermore, applicants must comply with all terms and conditions stated within that contract, including:

1. Clauses specifying criteria to receive electric service from WAPA.
2. WAPA's standard provisions, policies and procedures for Contracts, Integrated Resource Plans, General Power Contract Provisions, and creditworthiness as determined by WAPA.
3. Clauses that allow WAPA to reduce or increase an allottee's or Customer's allocation percentage, upon 180 days' notice, if WAPA determines that (1) the allottee or Customer is not using this power to serve its own loads; (2) the allocation amounts are consistently greater than the Customer's maximum load; or (3) the Customer is allotted a percentage of allocation returned to WAPA from another Customer.
4. Clauses concerning any energy not under Contract may be allocated at any time, at WAPA's sole discretion, or sold as deemed appropriate by WAPA, consistent with

federal law.

5. Clause providing for alternative funding arrangements, including Net Billing, Bill Crediting, Reimbursable Financing, and advance payment.
6. Contracts may include a clause providing for alternative funding arrangements, including Net Billing, Bill Crediting, Reimbursable Financing, and advance payment.
7. All power supplied by WAPA will be delivered pursuant to a scheduling agreement negotiated between WAPA, Customers and the allottees. Terms and conditions are subject to WAPA's final approval.
8. Clauses stipulating that Customers will pay for their percentage of the Base Resource, pursuant to the formula rate described in Section L, herein. Customers must pay all applicable rates and charges in the manner and within the time prescribed in the Contract.

G. Separate Contractual Arrangements with PacifiCorp

Eligible applicants that receive an allocation must execute a separate multi-party agreement among WAPA, Reclamation, Central Utah Water Conservation District, PRWUA, and PacifiCorp to ensure repayment of energy to PacifiCorp for the loss of power generation due to the Weber/Provo Water Exchange.

H. Contract Term

Contracts shall provide for WAPA to furnish electric service beginning October 1, 2024, through September 30, 2054.

I. Delivery Point

PRP is electrically interconnected to PacifiCorp's 138-kilovolt (kV) transmission system (PacifiCorp's System). Eligible applicants taking delivery of power from WAPA must do so at the PacifiCorp System 138-kV Hale Powerplant Switchyard, South Provo Tap, or Spanish Fork Substation.

J. Transmission Beyond Delivery Point

Any associated transformation/transmission beyond the PacifiCorp System 138-kV Hale Powerplant Switchyard, South Provo Tap, or Spanish Fork Substation is the sole responsibility of the eligible applicants that receive an allocation. Eligible applicants that receive an allocation must have the necessary arrangements for transmission and/or distribution service in place by the first effective day of the Contract.

K. Regional Transmission Organization

Should PacifiCorp, as the balancing authority operator where the PRP project is interconnected, join a full electricity market (e.g., a Regional Transmission Organization and/or an Independent System Operator), and in joining that market create unintended delivery point/point-of-receipt financial impact to the PRP, and/or other unintended financial impacts, such financial impacts will be included as part of the PRP operation expenses. WAPA will work with the Customers and eligible applicants that receive an allocation in good faith in an attempt to minimize financial impacts with the understanding that WAPA holds the unilateral right to ultimately agree or not agree to what those potential mitigation efforts might be and each Customer is ultimately responsible for all transmission costs associated with their allocation.

L. Rates and Payment

PRP is a “take all, pay all” project. This means the annual revenue requirement does not depend on the amount of energy available each year. Each eligible applicant that receives an allocation will receive a proportional share of the energy and will annually pay a proportional share of the OM&R expenses, including a separate annual payment to Reclamation for the PRP irrigation investments, in 12 monthly installments. WAPA establishes the rates for the PRP through a separate public process. For additional information, see PRP’s current Rate Order No. WAPA-189.

III.Changes Due to Drought

WAPA recognizes there have been, and continue to be, significant impacts caused from a

persisting long-term drought in the Colorado River Basin, and changes in the electric utility industry. To address this concern, WAPA, in collaboration with its Customers, will include the ability to make changes in how the federal resource is marketed if there is deemed a benefit to WAPA and its Customers. Any changes implemented would be done through negotiation and revision to individual Customer and allottee Contracts.

IV. Call for 2025 Resource Pool Applications for Power

Through this *Federal Register* notice, WAPA formerly requests applications from qualified preference entities wishing to purchase power from PRP from October 1, 2024, through September 30, 2054. Existing Customers do not need to submit an application unless they are seeking to increase their allocation. All applicants must submit applications using the APD application form identified in the **SUMMARY** section, herein, so that WAPA has a uniform basis upon which to evaluate the applications. To be considered, applicants must meet the Eligibility Criteria contained in the Marketing Plan and must submit a completed APD application form by the deadline specified in the **DATES** section, herein. To ensure full consideration is given to all applicants, WAPA will not consider requests for power or applications submitted before publication of this *Federal Register* notice or after the deadline specified in the **DATES** section, herein.

1. Application Profile Data (APD)

The APD application form has been approved by the Office of Management and Budget under Control No. 1910-5136. APD application forms are available upon request to the person listed in the **FOR FURTHER INFORMATION CONTACT** section, herein; or may be accessed online at:

<https://www.wapa.gov/regions/CRSP/PowerMarketing/Pages/2025-provo-power-marketing-plan.aspx>. A completed hard copy APD application forms with a wet signature may be submitted by U.S. Mail or other widely accepted delivery service with certified tracking to: Mr. Rodney Bailey, CRSP Manager, CRSP MC, Western Area

Power Administration, 1800 South Rio Grande Avenue, Montrose, CO 81401. APD application forms with an e-signature may be e-mailed to *Provo-Marketing@wapa.gov*. It is each applicant's responsibility to ensure it submits a timely application, so WAPA receives the applications before the date and time stated in the **DATES** section, herein.

Applicants must provide all information requested on the APD application form, if available and applicable. Please indicate if the requested information is not applicable or not available. WAPA may request, in writing, additional information from any applicant whose application is deficient. The applicant will have 10 business days from postmark date on WAPA's request to provide the information. In the event an applicant fails to provide all information to WAPA, the application will not be considered.

The information in the APD application form should be answered as if prepared by the entity/organization seeking the allocation of federal power. The information collected under this process will not be part of a system of records covered by the Privacy Act and may be available under the Freedom of Information Act. If you are submitting any confidential or business sensitive information, please mark such information before submitting your application.

2. Recordkeeping Requirement

If WAPA accepts an application and the applicant receives an allocation of federal energy, the applicant must keep all information related to the APD for a period of 3 years after signing a Contract for federal energy. There is no recordkeeping requirement for unsuccessful applicants who do not receive an allocation of federal energy.

WAPA has obtained Office of Management and Budget Clearance Number 1910-5136 for collection of the above information. The APD is collected to enable WAPA to properly perform its function of marketing limited amounts of federal hydropower. The data supplied will be used by WAPA to evaluate who will receive an allocation of federal power.

3. Contracting Process

After WAPA has evaluated the applications, WAPA will publish a notice of Proposed Allocations in the *Federal Register*. The public will have an opportunity to comment on the Proposed Allocations. After reviewing the comments, WAPA will publish a notice of Final Allocations in the *Federal Register*. WAPA will begin the contracting process with the existing Customers and new allottees after publishing the final allocations in the *Federal Register*, tentatively scheduled for the fall of 2023. WAPA will offer a pro-forma contract for power allocated under the Final 2025 Resource Pool Allocations. Allottees will be required to execute a contract within 6 months of the Contract offer. Contracts will be effective upon WAPA's signature, and service will begin on October 1, 2024, and continue through September 30, 2054.

Authorities

WAPA developed the Marketing Plan in accordance with its power marketing authorities pursuant to the following Acts of Congress: Reclamation Act of June 17, 1902 (Pub. L. 57-161) (32 Stat. 388), Reclamation Project Act of August 4, 1939 (Pub. L. 76-260) (53 Stat. 1187), , Department of Energy Organization Act of August 4, 1977 (Pub. L. 95-91) (91 Stat. 565), Energy Policy Act of October 30, 1992 (Pub. L. 102-575) (106 Stat. 4600, 4605), as such acts may be supplemented or amended.

Procedural Requirements

A. Review Under the National Environmental Policy Act (NEPA)

WAPA has determined that this proposed action fits within the categorical exclusion listed in appendix B to subpart D of 10 CFR part 1021 (B4.1 contracts, policies, and marketing and allocation plans for electric power). Categorically excluded projects and activities do not require preparation of either an environmental impact statement or an environmental assessment. A copy of the categorical exclusion determination is available

on the CRSP website at:

<https://www.wapa.gov/regions/CRSP/environment/Pages/environment.aspx>.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601 *et seq.*, requires a federal agency to perform a regulatory flexibility analysis whenever the agency is required by law to publish a general notice of proposed rulemaking for any proposed rule, unless the agency can certify that the rule will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, a “rule” does not include “a rule of particular applicability relating to rates [and] services...or to valuations, costs or accounting, or practices relating to such rates [and] services...” (5 U.S.C. 601).

WAPA has determined that this action relates to services offered by WAPA and, therefore, is not a rule within the purview of the RFA.

C. Review Under the Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*), WAPA has received approval from the Office of Management and Budget for the collection of customer information in this rule, under control number 1910-5136.

D. Determination Under Executive Order 12866

WAPA has an exemption from centralized regulatory review under Executive Order 12866. Accordingly, no clearance of this notice by the Office of Management and Budget is required.

Signing Authority

This document of the Department of Energy was signed on March 2, 2023, by Tracey A. LeBeau, Administrator, Western Area Power Administration, pursuant to delegated authority from the Secretary of Energy. That document, with the original signature and date, is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the *Federal Register*.

Signed in Washington, DC, on March 14, 2023.

Treena V. Garrett,
Federal Register Liaison Officer,
U.S. Department of Energy.

[FR Doc. 2023-05486 Filed: 3/16/2023 8:45 am; Publication Date: 3/17/2023]